

REMARKS

Claims 107-114 are rejected under the doctrine of obviousness-type double patenting over the following patents:

1. Claims 1-88 of U.S. Patent No. 6,056,744
2. Claims 1-51 of U.S. Patent No. 6,254,598
3. Claims 1-21 of U.S. Patent No. 6,258,087
4. Claims 1-16 of U.S. Patent No. 6,402,744
5. Claims 27-52 of U.S. Patent No. 6,077,257
6. Claims 107-113 of U.S. Patent No. 6,673,070
7. Claims 1-17 of U.S. Patent No. 6,613,047

Claims 107-114 are provisionally rejected under the doctrine of obviousness-type double patenting over the pending claims of the following co-pending applications:

1. Application Serial No. 09/911,874 (the '874 Application)
2. Application Serial No. 09/971,085 (the '085 Application)

Applicant will submit terminal disclaimers based on U.S. Patent Nos. 6,056,744, 6,254,598, 6,673,070, and 6,613,047 upon indication of allowable subject matter, but for these double patenting rejections.

Applicant respectfully traverses the double patenting rejections with respect to U.S. Patent Nos. 6,258,087 (the '087 Patent), 6,402,744 (the '744 Patent), and 6,077,257 (the '257 Patent). With respect to these double patenting rejections, the Examiner indicates that the "the use of mapping electrodes to first detect tissue is deemed an obvious consideration for one of ordinary skill in the art, particularly in view of the Edwards disclosure." The focus of an obviousness-type double patenting rejection as provided in MPEP §804(II)(B)(1) is whether any claim in the application defines an obvious variation of an invention claimed in the patent. Although the disclosure of the patent is not prior art, portions of the specification providing support for the patent claims may be considered in making the obviousness determination. The invention claimed in the instant application includes the use of mapping electrodes. Neither the disclosure nor claims of the '087, '744 or '257 patents include an embodiment using mapping electrodes. Nor do the cited patents teach or suggest the use of mapping electrodes. Therefore, the invention claimed in the instant application cannot be an obvious variation of any embodiment disclosed in any of the cited patents.

Applicant respectfully requests the double patenting rejections with respect to the '087 Patent, the '744 Patent, and the '257 Patent be withdrawn.

As to the provisional rejections, Applicant requests that any double patenting issues with respect to the '874 or '085 Applications and the instant Application be addressed upon the issue of one case and the indication of allowable subject matter in the other case.

Reconsideration in view of the foregoing amendments and remarks and allowance of claims 107-113 is respectfully requested.

Respectfully Submitted,

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Enclosures: Amendment Transmittal
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